IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 20944 of 2004

Between:

1 K.Rajanna, s/o Lachanna,
Arli (T) Village, Office of the Forest Range Officer,
Adilabad District, r/o Adilabad (On leave)

2 Md.Ayub, s/o late Sri Mohd.Ahmedullah,
Gadiguda, Office of the Forest Range Officer, Adilabad District,

r/o Adilabad (On leave)

3 S.Harinatha Rao, s/o Tirumala Rao,
Special Duty, Office of the Forest Range Officer, Boath, Adilabad

District, r/o Adilabad.

4 Md.Asadulla Khan, s/o late Kaleemulla Khan,
Section Sirchelma, office of the Forest Range Officer, Ichoda,

Adilabad District, r/o Adilabad.

..... PETITIONERS.

AND

1. The Divisional Forest Officer, Adilabad District, Adilabad.

2 The Conservator of Forests, Adilabad District, Adilabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court be pleased to issue a writ or order or direction, particularly, one in the nature of writ of certiorari quashing the order dated
27-10-2004 in O.A.No.4832 of 2004 passed by the Andhra Pradesh Administrative Tribunal, and issue a consequential direction to the respondents to continue the petitioners as Forest Section Officers as per the orders of the Divisional Forest Officer, Adilabad promoting the petitioners in the reference Rc.No.4672/02/S2 dated 27-05-2004 by setting aside the orders of abeyance issued by the Divisional Forest Officer, Adilabad in his references Rc.No.4672/2002-S2 dated 24-06-2004.

Counsel for the Petitioner:MR.M.JAGANNATHA SARMA

Counsel for the Respondents: GP FOR FORESTS

The Court made the following :

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ORDER: (Per Sri GB,J)

The petitioners are assailing the order, dated 27-10-2004 passed by the A.P.Administrative Tribunal in O.A.No.4832 of 2004.

2. The petitioners were working as Forest Beat Officers. However by order dated 27-05-2004 the petitioners were promoted purely on temporary basis as Forest Section Officers. However within a short spell, by an order dated 24-06-2004 the petitioners were kept in abeyance. Aggrieved by the said order, the petitioners filed O.A.No.4832 of 2004 before the A.P. Administrative Tribunal, Hyderabad.

3. The Tribunal after considering the material on record, held that the order of the respondents in keeping the order of promotion in abeyance vide proceedings dated 26-04-2004 and keeping the applicants as incharge Forest Section Officers in proceedings dated 26-04-2004 of the first respondent cannot be said to be against the principles of natural justice and accordingly dismissed the O.A. Aggrieved by the said order, the present writ petition has been filed.

4. The learned counsel for the petitioners submits that the appointing authority itself while promoting the petitioners as Forest Section Officers, has taken an undertaking

letter from the petitioners that they will have to vacate the posts without any objection and as the said vacancies are meant for direct recruitees, they will not claim any benefits arising out of the order or promotion. The learned counsel further submits that as the appointing authority is the Divisional Forest Officer and he is having power of termination or grant promotion to the petitioners, the Higher Authority has no jurisdiction to interdict the promotions made by the Divisional Forest Officer. In order to run the departmental work effectively, there is a necessity to provide sufficient staff. Under those circumstances, continuing the petitioners on temporary basis as Forest Section Officers until the direct recruitment is made would not prejudice the Department. Hence, the order of the Divisional Forest Officer, dated 24.06.2004 in keeping the promotions of the petitioners in abeyance is liable to be set aside.

5. On the other hand, the learned Government Pleader appearing for respondents submits that in order to obtain necessary permission from the higher authorities, the Divisional Forest Officer placed the matter before the Conservator of Forests. Because of the objections pointed out by the Conservator of Forests with regard to the promotions of the petitioners, stating that the promotions were not made in accordance with the Rules as contemplated in the Andhra Pradesh State Forest Subordinate Service Rules, 2000, and because the Conservator of Forest, Adilabad Circle did not give his acceptance, the Divisional Forest Officer, Adilabad Division kept the promotions of the petitioners in abeyance. Hence, we are of the view that the order passed by the Divisional Forest Officer dated 24-06-2004 is quite legal and valid.

6. We have heard the learned counsel for the petitioners and the learned Government Pleader for the Respondents.

7. Admittedly, in the instant case, the petitioners sought to be promoted as Forest Section Officers. It is however contended by the learned counsel for the petitioners that as direct recruitments were not made, the appointing authority has temporarily filled up some direct recruit vacancies by promotees, in view of the exigency of service. As the appointing authority took an undertaking from the petitioners that as and when direct recruitments are made, the services of the petitioners will be reverted and they cannot claim any seniority in that category nor did they come in the way of direct recruitment. When the services of the petitioners are very much required, it is always open for the appointing authority to promote the petitioners on

temporary basis. But, as it is a matter of administration of the department, this court cannot compel the authorities to fill up the posts. Under these circumstances, we find that it is not a case for interference. However, if the filling of the posts of Forest Section Officers is found to be essential, it is open for the authorities to consider the case of the petitioners with a specific condition that they shall be appointed without claiming any preferential treatment and they shall be reverted as soon as the posts are filled up by direct recruitment in accordance with the rules.

8. The writ petition is accordingly disposed of. No costs.

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G.BIKSHAPATHY, J

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P.S.NARAYANA, J

29th December, 2004.

Chvn/TJS

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Divisional Forest Officer, Adilabad District, Adilabad.

2 The Conservator of Forests, Adilabad District, Adilabad.

3. Two C.Cs. to the G.P. for Forests, High Court Buildings, Hyderabad (OUT).

4. Two C.D. ciopies.